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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,096	03/06/2002	Scott Donnel	47607/CM/C945	8479

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EXAMINER
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WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 06/23/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-4

# Office Action Summary

Application No.

10/092096

Applicant(s)

DONNEL ET AL

Examiner

S. WEINSTEIN

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-25 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-25 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 3
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 and 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer et al (5,580,597) in view of Ikeuchi et al (4,693,341), Durso (3,781,447), Petitbout (FRE. 2668682), Jaeger (EP. 303,328), Lewis (4,285,980) and Sell et al (2,779,681).

In regard to claim 1, Kramer et al discloses a method of processing meat comprising providing a first member (the mold/die cavity 10) comprising a first surface defining a concavity and comprising a plurality of protrusions (12) extending from said first surface and arranged in a first pattern, providing a second member (24) which can also have a plurality of protrusions arranged in a pattern (e.g., col. 3, para. 3), providing a meat product, sandwiching the meat product between the first and second surfaces impressing the patterns on the meat product, (e.g., a piston firmly forces the meat into the mold so that the meat conforms to surface 12-col. 2, lines 62 plus), heating the meat product within the two members for cooking the impressed patterns on the meat product (the mold may utilize heating elements 18 that induce a set to the meat product 14 positioned in the die cavity-col. 2, lines 65 plus), and cooking the meat product to a desired state. It would appear that Kramer et al removes the impressed meat product

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from the mold before the second or final cooking of the meat. However, whether the product is cooked in or out of the mold would have been an obvious matter of choice since both techniques are known as will be shown by the art taken as a whole. Thus, Kramer et al employs a mold to create a three dimensional net surface design (applicants' recited pattern) which is exactly why applicants provide mold surfaces with protrusions in a pattern. Both applicants and Kramer have as their objective to provide the meat with a simulated netted surface. Claim 1 appears to differ from Kramer et al in that both the first and second members have concavities with protrusions whereas Kramer et al discloses one member with a concavity and protrusions and is silent whether the other member which also has protrusions also has a concavity. As disclosed, applicants' members are two piece conventional molds with a raised pattern whereas Kramer et al discloses one mold and a packaging member (24) that functions as a mold if the packaging member is also provided with protrusions. As evidenced by Ikeuchi et al, Durso, Petitbout, Jaeger, Lewis and Sell et al, it is notoriously old to provide molds that are of two piece construction, with or without pattern imparting protrusions on their inner surfaces. Ikeuchi et al and Petitbout e.g., disclose pattern imparting protrusions on both surfaces of the mold sections. It is also notoriously old to compress mold sections with or without protrusions onto a sandwiched meat product as evidenced by Durso and Petitbout. To modify Kramer et al, if necessary, and provide a second member having a concavity and protrusions (beside the cover) for its art recognized and applicants' intended function would have been obvious. In regard to claim 2, Kramer et al discloses that the meat can be placed in a packaging film before

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heating and Jaeger and especially Lewis and Sell et al can be relied on as further evidence of providing meat products in packaging film before molding and heating. In regard to claim 3, Kramer et al, Ikeuchi et al and Petitbout all teach employing the same pattern in both members. In regard to claims 4-7, as noted above, it is not clear whether both "members" of Kramer et al are in position when heating occurs, or whether the product has been removed from the first member/mold. Applicants appear to disclose a first heating in the mold and a second heating outside of the mold. In any case, Kramer, at the minimum, discloses heating the meat in the mold by electrical heating (claim 5) to set the meat, and then the meat is further cooked (in/outside the mold?) in a hot water bath. In any case, the art applied is replete with examples of heating/cooking meat in or outside a mold employing various conventional heat sources such as steam (claim 7) as taught by Ikeuchi et al (col. 5, para. 1) or hot water (claim 4) as taught by Lewis (col. 3, para. 9). To modify Kramer, if necessary, and substitute one conventional heating process for another conventional heating system for its art recognized and applicants' intended function would have been obvious in view of the art taken as a whole. In regard to claim 8, if one employs two piece molds, as taught by the art, it is conventional to employ pivotable two piece molds and since the art taken as a whole fairly teaches one of ordinary skill in the art to employ a two piece mold in Kramer et al, it would have been obvious to employ a pivotable mold. See also Jaeger in this regard. In regard to claim 9, which recites the use of hydraulic pressure on one of the members/molds, as noted above, the art taken as a whole teaches applying pressure if two molds are employed, and the art also teaches that hydraulic pressure is,

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of course, notoriously old in molding (e.g., Durso, col. 2, lines 52 plus). In regard to claim 10, since Kramer et al, like applicants, are trying to simulate a netting, the pattern would be longitudinal and lateral. Claims 14-25 are rejected for the reasons given above. These claims recite the same limitations as do claims 14-25 but vary in the combination of those limitations.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-10 above, and further in view of Uotani (Jp 56-85257).

Claims 11-13 differ from the combination of references employed above in that the mold is conveyed through hot water. The art taken as a whole teaches using hot water to cook food including meat in molds and also teaches conveying meat containing molds through a heating system (e.g., Durso). Uotani discloses that applicants are not the first to convey food in molds through water as the heating system and the art taken as a whole thus clearly and fairly teaches that conveyance through a water heating system for its art recognized and applicants' intended function would have been obvious.

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is 703-308-0650. The examiner can generally be reached on Monday-Friday 7:00am to 3:30 pm.

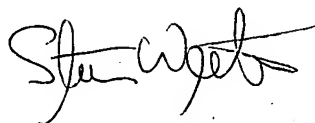
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for

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the organization where this application is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-0661.

S. Weinstein/mn  
June 18, 2003



STEVE WEINSTEIN  
PRIMARY EXAMINER 1761  
6/23/03